

REMARKS

Claims 1-11 and 14-18 are pending in this application. By this Amendment, claims 1, 14 and 15 are amended, and claims 16-18 are added. The amendments and added claims introduce no new matter. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

Applicant appreciates the courtesies shown to Applicant's representative by Examiner Maki in the July 11 personal interview. Applicant's separate record of the substance of the interview is incorporated into the following remarks.

The Office Action objects to claims 1-11, 14 and 15 for an alleged informality. Specifically, the Office Action objects to claims 1-11, 14 and 15 and asserts that claims 1, 14 and 15 should be amended to replace "at least one of ... or ..." with "at least one of ... and ..." The use of "or" in reference to "at least one of" is an accepted, and clear, recitation. Where the intent is to encompass any one or more of an X, a Y and a Z, (that is, any one of an X, a Y or a Z, or any combination of an X, a Y and/or a Z) it is permissible to use the claim language "at least one of an X, a Y or a Z." *See SuperGuide*, 358 F.3d at 886-87 (including n. 10); *Brown v. 3M*, 265 F.3d 1349, 1352 (Fed. Cir. 2001); MPEP §2173.05(h), Part II. Accordingly, Applicant asserts that the objected-to terms are sufficiently clear, as written. Withdrawal of the objection is respectfully requested.

The Office Action rejects claims 1-11 and 15 under 35 U.S.C. §112, first paragraph. The amendments to claims 1 and 15 obviate this rejection, as agreed during the July 11 personal interview with the Examiner. Withdrawal of the rejection is respectfully requested.

The Office Action rejects claims 1-4, 8, 9, 14 and 15 under 35 U.S.C. §§102(a) and (e) over U.S. Patent Application Publication No. 2003/0047266 to Yang; rejects claims 1-11, 14 and 15 under 35 U.S.C. §102(b) or §103(a) over U.S. Patent No. 5,088,535 to Potts et al. (hereinafter "Potts"); and rejects claims 1-11, 14 and 15 under 35 U.S.C. §103(a) over

JP-A-2000-025417 to Nakamura (hereinafter JP '417) in view of Potts and Yang. These rejections are respectfully traversed.

The Office Action asserts that Yang discloses all of the features of the independent claims. However, Yang does not disclose the relied-upon features for at least the below reasons. Yang discloses a bicycle tire structure including a breaker composed of nylon and Kevlar, and a tread that is attached on an outside of the breaker (Abstract). However, no specific details regarding the illustrated tread pattern are disclosed. The Office Action asserts that the tread pattern, depicted, for example, in Fig. 1, teaches the features of claims 1, 14 and 15. However, the figures in Yang are not described as to scale, and contain no specific measurements or indications of size relationships between any of the depicted elements. Nor can such relationships be imputed to this reference. As quoted under the heading PROPORTIONS OF FEATURES IN A DRAWING ARE NOT EVIDENCE OF ACTUAL PROPORTIONS WHEN DRAWINGS ARE NOT TO SCALE in MPEP §2125, "it is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue." Accordingly, at least the Office Action's assertion that the block height of the sub blocks depicted in Yang is less than the block height of the main block is not adequately supported by the reference.

Regarding the rejections over Potts, the Office Action asserts that intermediate blocks 16 are considered to correspond to the claimed sub blocks, and that outer blocks 17 are considered to correspond to main blocks. The Office Action references Figs. 3 and 4 as support for this conclusion. However, the intermediate blocks 16 in Potts are not between outer block 17 in a tire circumferential direction. Rather, in Potts, the allegedly corresponding sub blocks are adjacent to the allegedly corresponding main blocks in a tire width direction.

Regarding the rejection over JP '417 in view of Potts, the Office Action attempts to articulate further support for the combination of these references. The Office Action asserts that because JP '417 teaches that the third blocks 16 (sub blocks) resist the flow of mud across the tire width between the cross direction block 14, this indicates that sub blocks sink into the muddy ground and, as the height of the sub blocks is lower than that of the main blocks 14, the flow of mud between the main blocks is not completely blocked up.

The Office Action goes on to assert that Potts suggests beveling blocks of an off-road tire so that during cornering the beveled block can sink into the ground to improve gripping action while also making it easier for the ground surface to "ride over" the beveled block. However, the Office Action's interpretation of Potts is incorrect. Specifically, Potts teaches that beveling the blocks improves ground flow through a trough in the tire circumferential direction, not ground flow across the sub block.

The gripping action described in Potts involves the ground surface dropping into a trough, such as 31 or 32, between the outer edge of one block and the inner edge of an adjacent block. The configuration disclosed in JP '417 would not obviously benefit from the purported beveling of sub blocks 16 because (1) there is no suggestion that the outer blocks 18 suffer from a lack of ground contact; and (2) even if the sub blocks 16 were beveled, the taller main blocks 14 would apparently interfere with any purported trough between blocks 16 and 18.

Further, the significant differences between the tread configuration disclosed in Potts and that of JP '417 would not have logically commended themselves to one of ordinary skill in the art. The blocks in Potts, such as 16 and 17, (1) lie outside center blocks 15 and 15a, (2) are taller than the height of the center blocks 15 and 15a, and (3) form a relatively narrow trough 32 (see Figs. 1 and 3; col. 3, lines 47-52; and col. 5, lines 3-9 of Potts). This configuration does not suggest a corresponding benefit to beveling sub blocks that are (1)

between central blocks, (2) of lower height than the central blocks, and (3) are widely dispersed from any peripheral blocks 18, as depicted in JP '417.

These arguments were discussed during the July 11 personal interview with the Examiner. Agreement was not reached whether the applied references taught or could reasonably be considered to have suggested, the combinations of features positively recited in the independent claims.

For at least the above reasons, the applied references do not teach, nor can they reasonably be considered to have suggested, the combinations of features positively recited in independent claims 1, 14 and 15. Additionally, claims 2-11 are also neither taught, nor would they have been suggested, by the applied references for at least the respective dependence of these claims, directly or indirectly, on an allowable base claim as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-11, 14 and 15 are respectfully requested.

Added claim 16 is allowable as indicated by the Examiner during the personal interview. Claim 17 is also allowable, as discussed during the personal interview.

Additionally, added claim 18 recites allowable subject matter that is not taught, or reasonably suggested, by the applied references, at least for the inclusion of depressions on the upper face of the sub block.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-11 and 14-18 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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